

7 FAM 1100 APPENDIX H MISCELLANEOUS CITIZENSHIP AND NATIONALITY RELATED CERTIFICATES AND OTHER DOCUMENTS

*(CT:CON-454; 04-15-2013)
(Office of Origin: CA/OCS/L)*

7 FAM 1110 APPENDIX H SUMMARY

(CT:CON-430; 01-04-2013)

- a. At one time the Bureau of Consular Affairs (CA) and U.S. embassies and consulates abroad issued certain citizenship related documents in addition to passports and Consular Reports of Birth Abroad of a Citizen of the United States of America. Issuance of these documents was covered by prior existing statutes and regulations. Most have fallen into disuse with the passage of time and changes in regulations. However, they still may be encountered in adjudicative situations. This replaces old 7 FAM 1400 Appendix F (TL-CON-50 09-07-1990).
- b. The documents include:
 - (1) Certificates and Cards of Identity and Registration;
 - (2) Certificates of Non-Citizen National Status;
 - (3) Certificates of Nationality; and
 - (4) Certificates of Identity for Travel to the United States to Apply for Admission.
- c. None of these U.S. Department of State documents is equivalent to Certificates of Citizenship issued by the Attorney General or by a court having naturalization jurisdiction and Certificates of Naturalization issued by the U.S. Immigration and Citizenship Service (USCIS). They do not constitute proof of U.S. citizenship under 22 U.S.C. 2705. (See 7 FAM 1100 Appendix B Evidence of Citizenship.)
- d. The U.S. Immigration and Naturalization Service (INS) issued Form I-197, United States Citizen Identification Cards and Form I-179, Identification Card for Use of Resident Citizen in the United States until the early 1980's. USCIS no longer issues the cards, and any person seeking such documentation should be advised that he or she may apply for a U.S. passport instead through normal passport issuing procedures. Although these cards are no longer issued, those that were issued are still recognized by USCIS and U.S. Customs and Border

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Protection (CBP) as evidence of citizenship under 8 CFR 235.10 for limited purposes. Possession of either document does not constitute proof of U.S. citizenship under 22 U.S.C. 2705, and they are not acceptable as proof of U.S. citizenship. It is secondary evidence. A person applying for a passport presenting such a document should be advised to present the primary evidence of citizenship set forth in 7 FAM 1100 Appendix B (under development).

NOTE:

Exemplars for the Form I-197 and Form I-179 are available in the USCIS publication M-274 Handbook for Employers.

e. Questions:

- (1) If posts abroad receive such a document and have any question about it, you should immediately contact your CA/OCS/L at Ask-OCS-L@state.gov.
- (2) Domestic passport agencies and centers should contact CA/PPT/L/LA at CA/PPT/AdjQ@state.gov.

7 FAM 1120 APPENDIX H CERTIFICATES AND CARDS OF IDENTITY AND REGISTRATION

(CT:CON-430; 01-04-2013)

- a. U.S. citizens resident abroad were first asked to register each year with the U.S. embassy or consulate in whose district they reside in 1880, but the practice became more uniform after the publication of President Theodore Roosevelt's Executive Order of April 8, 1907, implementing the Act of March 2, 1907 regarding expatriation and protection of nationals, and consular instructions which called for the issuance of a Certificate of Identity and Registration.
- b. The form of the certificate of identity registration evolved over time. Ultimately, the following documents were issued:
 - (1) Form FS-225, The Certificate of Identity and Registration was established in 1907 as a form of identity for U.S. citizens residing abroad. It could include family members and a group photo. Form FS-225 was discontinued on September 1, 1971;
 - (2) Form FS-225-B, The Card of Identification for Use on the Mexican Border was added on October 23, 1943 as a wartime measure required by Departmental Order 1207 for the purpose of crossing the border from Mexico. Form FS-225-B was discontinued July 17, 1961.
 - (3) Form FS-225-A, The Card of Identity and Registration was adopted June 1, 1943 to provide identification for one person. CA stopped issuance of Form FS-225-A in 1991, except in certain situations and then only with authorization by CA. The cards were also issued to U.S. nationals who did

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not have valid passports who were being deported back to the United States, as well as to returning nationals whose passports had been withdrawn or denied under 22 CFR 50, 22 CFR 51, or 22 CFR 53. This included persons returning as the result of an agreed upon prisoner transfer. The cards were also approved for issuance to nationals involved in a common disaster abroad who were not or could not be immediately documented. Issuance of these cards is presently covered by 22 CFR 50.9. This section will be removed in upcoming CFR revisions. Form FS-225-A Card of Identity and Registration was totally abolished in 2003.

- c. The abolition of Form FS-225-A coincided with the introduction of the Smart Traveler Enrollment Program (STEP) (see 7 FAM 040) and with the introduction of the Overseas Passport Issuance Program (see 7 FAM 1360). Form FS-558, Passport and Nationality Registration Cards formerly used by posts to record local registration of U.S. citizens abroad was also eliminated following the worldwide introduction of the American Citizen Services (ACS) case tracking system and STEP. For U.S. citizens without Internet access, posts continue to use form DS-4024, the fillable paper version of STEP.
- d. Form DS-11, Application for a U.S. Passport was formerly used for both passport application and registration applications. However, Form DS-11 was amended to remove registration as an option. Therefore, registration is no longer considered to be a means of citizenship adjudication. Likewise, self registration via the STEP program is also not a means of citizenship adjudication. Currently citizenship can only be adjudicated through an application for a passport of any type or a Form DS-2029, Application for Consular Report of Birth Abroad of a Citizen of the United States of America.

See ...CA Intranet ...

Exemplar Form FS-225

Exemplar Form FS-225-A

Exemplar Form FS-225-B

- e. The STEP registration system is now used for the purpose of emergency evacuation planning and to enable our embassies and consulates to contact our registered citizens in these emergencies.
- f. In very limited circumstances, issuance of passport waivers and travel letters can still be issued. Guidance regarding these documents is provided in 7 FAM 1300 Appendix N.

See the Consular Intranet for ...

historical instructions to consuls relating to the registration function

7 FAM 1130 APPENDIX H CERTIFICATE OF U.S. NON-CITIZEN NATIONAL STATUS

(CT:CON-430; 01-04-2013)

- a. Certificates of Non-Citizen National are authorized pursuant to INA 341(b) (8 U.S.C. 1452(b)). Such certificates were issued only to persons who are nationals but not citizens of the United States, generally persons born in American Samoa or on Swains Island. These certificates are no longer issued. Instead, a U.S. passport containing a specific endorsement stating that the bearer is a U.S. non-citizen national, not a U.S. citizen is issued to these persons. Children born abroad to U.S. Non-Citizen Nationals who acquire U.S. Non-Citizen National status are also eligible for a Consular Report of Birth, coded to print U.S. Non-Citizen National rather than U.S. citizen. See 7 FAM 1440.
- b. Adjudication of claims of U.S. Non-Citizen National status requires:
 - (1) Presentation of satisfactory proof that the applicant is a national, but not a citizen of the United States; or
 - (2) Taking and subscribing to an oath of allegiance in the United States or its outlying possessions before an immigration officer when petitioning for naturalization. (An outlying possession is defined in INA 101(a)(29) (8 U.S.C. 1101(a)(29)) as American Samoa and Swains Island only).
 - (3) 7 FAM 1125 and 1140 give detailed guidance about documenting a non-citizen national who was born abroad to a non-citizen national parent. The oath referred to above is also found there.
- c. Documentation Issued to Non-Citizen Nationals: A passport containing the following endorsement is issued to non-citizen nationals. (For all endorsement codes see 7 FAM 1300 Appendix B.) The endorsement is Code 09 and states:

"THE BEARER IS A UNITED STATES NATIONAL AND NOT A UNITED STATES CITIZEN."

- d. General Correspondence: Several offices in the Department, including CA/OCS/L, CA/PPT/LA/L and L/CA receive many requests for certificates of non-citizen national status. They come from prisoners, tax protesters and other persons who for one reason or other have decided they do not owe allegiance to the United States. Such persons are not eligible for this status and cannot be issued passports with the above endorsement.
- e. Questions:
 - (1) If posts have specific questions as a result of receiving such correspondence CA/OCS/L (ASK-OCS-L@state.gov) should be contacted.
 - (2) Agencies should contact CA/PPT/L/LA at CA-PPT-ADJQ@state.gov.

7 FAM 1140 APPENDIX H CERTIFICATES OF NATIONALITY

(CT:CON-430; 01-04-2013)

- a. Authority to issue these certificates is provided by INA 359 (8 U.S.C. 1502) and 22 CFR 50.10(a). They were required from time to time by judicial or administrative bodies in the former Soviet Union and the Eastern Bloc countries when U.S. citizens by birth (not naturalized) tried to make property and other claims before and after World War II. They were prepared in CA in the form of a diplomatic note to which a photograph of the individual was attached. The note provided information regarding the individual's passport. They were not given to the person but transmitted directly via diplomatic channels to the authority in the foreign jurisdiction which had made the request. CA has not received a request for such certificates since the 1980's. The legal authority to issue these documents has never been repealed.
- b. Questions:
 - (1) If posts abroad receive such a document and have any question about it, you should immediately contact CA/OCS/L at ASK-OCS-L@state.gov.
 - (2) Domestic passport agencies and centers should contact CA/PPT/L/LA at CA/PPT/AdjQ@state.gov.

See ...

Department Order 910 Issue of Certificates of American Nationality
(January 2, 1941)

7 FAM 1150 APPENDIX H DOCUMENTATION OF IDENTITY FOR TRAVEL TO THE UNITED STATES TO APPLY FOR ADMISSION

(CT:CON-454; 04-15-2013)

- a. 7 FAM 1100 provides guidance about adjudication of a citizenship claim.
- b. When a determination is made that an applicant for a U.S. passport or Consular Report of Birth Abroad of a Citizen of the United States of America did not acquire U.S. citizenship, the applicant is provided with a written notification that the citizenship claim has not been satisfactorily established and the person's name is entered in the Consular Lookout and Support System (CLASS) with a reason code "N" lookout reflecting the finding of no claim to U.S. citizenship. (See 7 FAM 1330 and 7 FAM 1300 Appendix A.) 7 FAM 1100 Appendix H Exhibit 1 and 7 FAM 1100 Appendix H Exhibit 2 provides sample language to be used regarding this matter.

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- c. A person for whom a finding of non-acquisition of U.S. citizenship has been made by the Department of State may not request an administrative hearing from CA/PPT/L to review the basis for the denial in accordance with 7 FAM 1386.2. Non-citizenship is not a basis for such a hearing under 22 CFR 51.70.
- d. The person has three other possible avenues of recourse:
 - (1) He or she may apply again for a U.S. passport or Consular Report of Birth Abroad of a Citizen of the United States of America, submitting new evidence not previously considered if available;
 - (2) He or she may file a legal action in Federal court in the United States; or
 - (3) He or she may be eligible to apply to the U.S. embassy or consulate for "Documentation of Identity for Travel to The United States to Apply for Admission" pursuant to 8 U.S.C. 1503(b). This will be issued primarily in cases involving controversial questions of law. If these circumstances prevail, the Department will authorize issuance of the document thus giving the applicant the option of pursuing their case in court in the United States.
- e. How Does a Person Apply? An application for a "Certificate of Identity for the Purpose of Traveling to a Port of Entry in the United States and Applying for Admission" consists of an affidavit executed by the applicant pursuant to 8 U.S.C. 1503(b) and 22 CFR 50.11 (currently under revision), in accordance with procedures provided in 7 FAM 1150 Appendix D paragraph i.
- f. Approval, Denial, and Appeal: 8 U.S.C. 1503(b) provides that the diplomatic or consular officer must be satisfied that such application is made in good faith and has a substantial basis. The statute also provides that if an application for such certificate is denied, the applicant shall be entitled to an appeal to the Secretary of State, who, if he/she approves the denial, shall state in writing the reasons for the decision.
- g. Who is Eligible to Apply for A Certificate of Identity for the Purpose of Traveling to a Port of Entry in the United States and Applying for Admission: 8 U.S.C. 1503(b) states that its provisions shall be applicable only to:
 - (1) A person who at some time prior to his application for the certificate of identity has been physically present in the United States, or
 - (2) To a person under sixteen years of age who was born abroad of a United States citizen parent.
- h. How Does the Person Apply for Admission: 8 U.S.C. 1503(c) provides that a person who has been issued a certificate of identity under the provisions of subsection (b), and while in possession thereof, may apply for admission to the United States at any port of entry, and shall be subject to all the provisions of this Act relating to the conduct of proceedings involving aliens seeking admission to the United States.
- i. Who Determines If the Person Is Eligible for Admission to the United States: 8

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U.S.C. 1503 provides that a final determination by the Attorney General that any such person is not entitled to admission to the United States shall be subject to review by any court of competent jurisdiction in habeas corpus.

- j. Adjudication of an Application for a Certificate of Identity for the Purpose of Traveling to a Port of Entry in the United States and Applying for Admission:
- (1) These documents should never be issued without guidance from the Office of Legal Affairs, Directorate of Overseas Citizens Services, Bureau of Consular Affairs (CA/OCS/L).
 - (2) Consular officers who decide such a certificate may be issued must advise CA/OCS/L at least 60 days in advance to give time for proper consideration.
 - (3) With concurrence of CA/OCS/L, the person appears before a consular officer at any embassy or consulate to apply. The affidavit must include:
 - (a) Full and true name of the applicant
 - (b) Period(s) and place(s) of residence outside the United States
 - (c) That the applicant has been physically present in the United States or that he/she is under the age of sixteen and was born abroad to a citizen parent.
 - (d) The applicant claims to be a national of the United States, the basis for that claim, and supporting evidence.
 - (e) The claim is made in good faith and on a substantial basis.

“Good faith” and “substantial basis” clarified

Good Faith: The applicant must demonstrate to the consular officer to have an honest belief that he/she is a national of the United States. Consular officers have to consider whether good faith is demonstrated on a case by case basis in light of the circumstances and evidence presented and when the consular officer is satisfied to the fact the individual is who he/she claims to be. Good faith would not be considered present when we know the persons expatriated themselves in one means or another or when false information or evidence has been submitted.

Substantial Basis: A substantial basis of a claim is one where the diplomatic or consular officer is satisfied that the claim is sufficient to merit adjudication by the courts of the United States and merits determination by the Attorney General for the request for admission to the United States for this purpose. Also, when the applicant genuinely believes his/her case raises controversial questions that require clarification before the courts in the United States. A substantial basis does not exist if a court in the United States has already ruled that the applicant is not a U.S. national. The same is true if a previous ruling to this effect has been made by a department, agency, or executive official of the United States.

- (4) To issue such a document it is necessary that the consular officer is

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satisfied with the following:

- (a) The applicant is claiming a right or privilege as a national of the United States;
 - (b) That this right or privilege had been denied the applicant by a United States department, agency or official on the ground they are not a national;
 - (c) The place and date of the denial;
 - (d) The applicant wishes to travel to a port of entry in the United States to apply for admission. (Travel plans should be provided to CA/OCS/L so the Department of Homeland Security (DHS), USCIS and U.S. Customs and Border Protection (CBP) can be notified in advance);
 - (e) The applicant understands that by applying for admission they are subject to all the provisions of the INA relating to aliens seeking admission to the United States; and
 - (f) The applicant was truthful in all respects as to the facts presented and has no additional evidence to submit.
- (5) If possible and practicable, the consular officer, working with the Fraud Prevention Office at post analyze the facts asserted in the case to attempt to determine their veracity.
- (6) New or Additional Evidence: If new evidence is presented by the applicant that casts doubt on the original finding that the applicant was not a citizen, CA/OCS/L should be immediately contacted and provided with the additional evidence. CA/OCS/L will consider the additional evidence and advise post of their findings. No further action should be taken on the case in the meantime.
- (7) Endangerment of Public Safety: If the consular officer believes that the presence of the applicant in the United States could lead to endangerment of public safety CA/OCS/L and the Regional Security Officer (RSO) should be consulted.

k. Issuance of Certificates of Identity:

- (1) Form FS-343-a, "Certificate of Identity Issued under Section 360(b) of the INA" should be used;
- (2) The applicant should sign and swear (or affirm) to the document before the diplomatic or consular officer;
- (3) Two identical photographs taken within thirty days prior the application should be attached;
- (4) The applicant's fingerprints should be taken and attached;
- (5) The applicant must possess a valid foreign passport and valid U.S. visa. If not qualified for a visa humanitarian parole may be requested;

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- (6) Four copies of the original should be made and marked "copy";
- (7) The original should be given to the applicant;
- (8) One copy should be retained at post;
- (9) One copy should be sent to the District Director of U.S. CIS and the Officer in Charge of CPB at the port of arrival by fax or email;
- (10) One copy should be sent to CA/OCS/L (an advance copy should be provided by email (ASK-OCS-L@state.gov) or fax to facilitate CA/OCS/L's coordination with USCIS and CBP; and
- (11) A duplicate original bearing the post's seal should be transmitted to CA/OCS/L at the following address:

Mailing Address:

Overseas Citizens Services

CA/OCS/L

U.S. Department of State

SA-29, 4th Floor

2201 C Street, N.W.

Washington, DC 20520

Street/FedEx/UPS/DHL Address:

Overseas Citizens Services

CA/OCS/L

U.S. Department of State

2100 Pennsylvania Avenue, N.W.

Washington, DC 20037

- l. **Period of Validity:** The document may only be issued after the approval has been granted to issue and the applicant has made specific, confirmed travel plans. The certificate should be annotated to expire two months from the date of issuance. If extension is required it will be done by USCIS. Once permission has been granted for issuance, CA/OCS/L will notify the appropriate USCIS, CPB and DHS authorities.
- m. **Denial:**
 - (1) If a Certificate of Identity is denied the factual or legal grounds must be noted on the document and any copies.
 - (2) Post should retain the original application.
 - (3) One copy should be returned to the applicant.
 - (4) Two copies should be returned to CA/OCS/L together with all evidence submitted by the applicant.
- n. **Appeal by Applicant:** When issuance of a certificate of identity has been denied the applicant may appeal. The appeal should be:

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- (1) A written statement addressed the Secretary of State;
 - (2) Set forth the facts and grounds upon which United States nationality is claimed;
 - (3) Give reasons why the applicant considers the denial of the application was not justified; and
 - (4) The statement should be executed and submitted to the diplomatic or consular office which made the denial. If the statement contains facts that were not set out in the original application it should sworn (or affirmed) before the diplomatic or consular officer. The diplomatic or consular officer must submit an advisory opinion to CA/OCS/L for consideration. The applicant's statement should accompany the consular officer opinion. Alternately, an attorney in the United States, acting on behalf of the applicant may appeal directly to the Secretary of State. The appeal should contain the same information and be directed to CA/OCS/L (ASK-OCS-L@state.gov).
- o. Certificate of Identity Obtained by Fraud or Other Illegality: Whenever a diplomatic or consular officer learns that a certificate of identity has been obtained by fraud or is in the possession of someone other than the applicant, every attempt to obtain possession of the document should be made. If it is secured it should be sent to the Bureau of Consular Affairs Directorate of Fraud Prevention Programs (CA/FPP) together with a report on the matter. If it is not possible to secure return of the document a report should still be sent to CA/FPP. That office will confer with Diplomatic Security (DS) about possible investigation.

7 FAM 1160 THROUGH 1190 APPENDIX H UNASSIGNED

7 FAM 1100 Appendix H Exhibit 1 **Sample Denial Letter - No Claim to U.S.** **Citizenship**

(CT:CON-454; 04-15-2013)

(Post Letterhead)

Date

Name

Address Line 1

Address Line 2 address

City, Country Postal Code

Dear (name of applicant)

I am writing in reference to your recent application for a U.S. passport (and Consular Report of Birth of a U.S. Citizen Abroad).

I regret to inform you that after careful review of the evidence you submitted with your application, it has been determined that your claim to U.S. citizenship has not been satisfactorily established. Adjudication of your application revealed that (Select applicable reason):

Your U.S. citizen parent(s) lacked sufficient physical presence in the United States or its outlying possessions prior to your birth to transmit U.S. citizenship to you. (Insert applicable transmittal requirement and citation to appropriate section of U.S. law).

Your U.S. citizen parent did not fulfill the requirements of Section 309 of the Immigration and Nationality Act in order for a child born out of wedlock to acquire U.S. citizenship.

There is insufficient evidence that you were born abroad to a U.S. citizen parent. Evidence of your filiation to a U.S. citizen parent was not satisfactory. You may submit additional evidence, including DNA evidence, to establish such filiation, following procedures on the U.S. Department of State web page at http://travel.state.gov/law/info/info_614.html.

You may submit additional evidence to address these issues. Your application for a U.S. passport (and Consular Report of Birth of a U.S. Citizen Abroad) will be held in abeyance at the U.S. (Embassy/Consulate) for 90 days from the date of this letter. You may submit such evidence to us at the following address:

U.S. Embassy/Consulate

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Address line 1

Address line 2

City, Country Postal Code

If no additional evidence is received by that date, your application will be considered abandoned and a finding of non-acquisition of U.S. citizenship will be entered in our world-wide Consular lookout system. This means that should you apply for documentation as a U.S. citizen at a future date, you will have to submit satisfactory evidence to overcome the previous finding of non-acquisition of citizenship.

Should you have any additional questions, please do not hesitate to contact us at (insert phone number and/or email for post).

Sincerely,

Signature of Consular Officer

Name of Consular Officer

Title of Consular Officer

7 FAM 1100 Appendix H Exhibit 2
Notification to Claimant Regarding
Documentation of Identity For Travel to the
United States to Apply for Admission

(CT:CON-454; 04-15-2013)

(Post Letterhead)

Date

Name

Address Line 1

Address Line 2 address

City, Country Postal Code

Dear (name of applicant)

I am writing in reference to your letter of (date) concerning the denial of your application for a U.S. passport (and Consular Report of Birth of a U.S. Citizen Abroad) due to non-acquisition of citizenship.

Your request for reconsideration of the application based on additional evidence has been reviewed by this office and by the U.S. Department of State, Directorate of Overseas Citizens Services, Office of Policy Review and Inter-Agency Liaison. Unfortunately, we have concluded that the evidence you submitted is insufficient to overcome the initial finding of non-acquisition of U.S. citizenship.

While you are free to submit additional evidence to the Office of Policy Review and Inter-Agency Liaison directly, or to execute a new application for a U.S. passport (or Consular Report of Birth) at any U.S. embassy or consulate, absent new evidence not previously submitted, the Department of State's determination stands.

There is no further administrative appeal of a finding of non-acquisition of U.S. citizenship.

You may be eligible to apply to the U.S. embassy or consulate for "Documentation of Identity for Travel to The United States To Apply For Admission" pursuant to 8 U.S.C. 1503(b). 8 U.S.C. 1503(b) states that its provisions shall be applicable only to

- (1) a person who at some time prior to his application for the certificate of identity has been physically present in the United States, or
- (2) to a person under sixteen years of age who was born abroad of a United

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States citizen parent.

Should you wish to pursue the matter, please contact the U.S. Embassy/Consulate to arrange for an appointment for you to complete the application process.

8 U.S.C. 1503(c) provides that a person who has been issued a certificate of identity under the provisions of subsection (b), and while in possession thereof, may apply for admission to the United States at any port of entry, and shall be subject to all the provisions of this Act relating to the conduct of proceedings involving aliens seeking admission to the United States.

You may also wish to engage the advice of legal counsel regarding this matter.

Should you have any additional questions, please do not hesitate to contact us at (insert phone number and/or email for post).

Sincerely,

Signature of Consular Officer

Name of Consular Officer

Title of Consular Officer